

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ADALBERTO VELAZQUEZ,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

-----X
ANN M. DONNELLY, United States District Judge:

NOT FOR PUBLICATION

TRANSFER ORDER
20-cv-2791 (AMD)

On June 22, 2020, the *pro se* petitioner, incarcerated at the Metropolitan Detention Center in Brooklyn, filed this petition for habeas corpus pursuant to 28 U.S.C. § 2241. (ECF No. 1.) The petitioner challenges his guilty plea before the Honorable Kimba M. Wood in the United States District Court for the Southern District of New York, captioned *United States v. Velazquez*, 19-cr-00116-01. (*Id.*)

Because the petitioner challenges the validity of his sentence rather than its execution, his petition must be brought pursuant to 28 U.S.C. § 2255. *See Jiminian v. Nash*, 245 F.3d 144, 146-47 (2d Cir. 2001) (“[A]s a general rule, federal prisoners must use § 2255 instead of § 2241(c)(3) to challenge a sentence as violating the Constitution or laws of the United States.”). Under Section 2255, venue is proper in the district in which the petitioner was sentenced. *See* 28 U.S.C. § 2255(e).

Accordingly, the Clerk of Court is directed to transfer this case to the United States District Court for the Southern District of New York. The provision of Rule 83.1 of the Local Rules of the Eastern District of New York that requires a seven-day delay is waived. Upon the transfer of the case, the Clerk of Court is requested to mark this case closed.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
June 29, 2020